

REMARKS

Claims 1, 4-8 and 13-15, 17-21 and 24-29 are all of the claims pending in the present Application. Applicants have amended various claims to define the claimed invention more particularly. Claims 6-8, 19, and 20 have been withdrawn. No new matter is added.

While the claim amendments made herein may help to distinguish the invention over the prior art, Applicant's intention in making the amendments is for the purpose of particularly pointing out the invention, and not for the purpose of distinguishing the invention over the prior art, narrowing the claims, or for any statutory requirements of patentability. Further, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

Claims 21 and 28 stand rejected under 35 U.S.C. § 112, second paragraph as being allegedly indefinite.

Claims 1, 4, 5, 13-15, 17, 18, 21, and 24-29 stand rejected under 35 U.S.C. § 112, first paragraph as being allegedly failing to comply with the enablement requirement.

Although Applicants respectfully disagree with the Examiner with regard to the above 35 U.S.C. § 112 rejections, in an effort to expedite prosecution, Applicants have amended the claims in a manner believed fully responsive to all points raised by the Examiner.

Indeed, in the Personal Interview conducted on June 8, 2011, the Examiner agreed that Amendments to the independent claims, as reflected in the present Amendment, would overcome the above 35 U.S.C. § 112 rejections.

Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Furthermore, with respect to Shiozaki (WO 03/044881), Chen et al. (CN 1416189), and Cho (U. S. Patent Pub. 2003/0211391), cited in the Office Action dated November 9, 2010, Applicants submit that the alleged references, either alone or in combination (arguendo), fail to teach or suggest, “*wherein a weight percent of said at least one element in terms of oxide is in a range from 0.01% to 4% of a total weight of said base particles and said at least one element in terms of oxide,*” as recited in claim 1, and similarly recited in claims 24 and 29.

Indeed, in the Personal Interview conducted on June 8, 2011, the Examiner agreed that

the above alleged references fail to teach or suggest this feature of claims 1, 24, and 29.

Furthermore, Applicants submit that the claimed invention defines a positive active material, in which a predetermined range is 0.01% to 4%, as recited in claims 1, 24, and 29. Having this predetermined range is important, since the claimed range achieves unexpected results relative to prior art, as shown in Table 5 in the present Application.

More specifically, as shown in Table 5 and disclosed in the related text in the Application, by adjusting the deposition amount to 0.01% by weight or larger, the effect of improving the cycle characteristics of the battery can be sufficiently produced. By regulating the deposition amount to 4% by weight or smaller, the possibility of battery capacity decrease can be diminished (e.g., see application at page 27, lines 7-12).

Indeed, in the course of intensive investigations made by the inventors of the present application on processes for producing under various conditions a positive active material having a Group 3 element imparted thereto, they utterly surprisingly found that the decrease in discharge capacity can be inhibited when imparting a Group 3 element to base particles is conducted under specific conditions, as set forth in the claimed range (e.g., see application at page 15, lines 3-10).

The cited references Shiozaki, Chen et al., and Cho, either alone or in combination (arguendo), do not even recognize the problems addressed by the present invention, let alone teach or suggest (and thus provides a much different structure than) a solution similar to that of the present invention. Therefore, the alleged references fail to teach or suggest this feature of the claimed invention.

In view of the foregoing, Applicants submit that claims 1, 4-8 and 13-15, 17-21 and 24-29, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

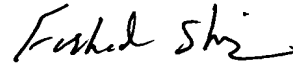
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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 6/24/11



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